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Lyon & Artz PLC
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SOUTHFIELD, MI 48034

In re Application of:
Nold *et al.*
Application No. 09/410,952
Filed: October 05, 1999
Attorney Docket No.: 198-1601

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a response to the communication filed via facsimile transmission on December 13, 2001, that is being treated as a petition to withdraw the holding of abandonment in the above-identified application. No fee is required.

The petition is **granted**.

The application was held abandoned for failure to respond to the Office action mailed on April 03, 2001. A Notice of Abandonment was mailed on November 30, 2001.

Petitioner asserts that on April 20, 2001, a response to the Office action of April 03, 2001 was transmitted to the United States Patent and Trademark Office (PTO), via facsimile transmission. To support this assertion, petitioner has provided a copy of the response to the Office action that includes a proper Certificate of Facsimile Transmission under 37 CFR §1.8(a), a successful transmission report dated April 20, 2001 that includes a copy of the facsimile transmission cover sheet, and a statement from the attorney Kevin G. Mierzwa, that attests on a personal knowledge basis that the above identified response was facsimile transmitted to the PTO on April 20, 2001.

A review of the application file record reveals that the above-identified response is not of record in the application file and cannot be located. However, 37 C.F.R. § 1.8(b) provides for accepting a correspondence as being timely filed if it was mailed or transmitted in accordance with 37 C.F.R. § 1.8(a).

The petition meets the conditions of 37 C.F.R. § 1.8(b) to establish the previous timely filing of the response. The application is not abandoned in fact.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The copy of the response submitted with the instant petition is accepted since the response originally submitted was apparently lost.

The application file is being forwarded to the Technology Center 2800 support staff for entry of the response. From there, the application will be forwarded to the examiner for appropriate action.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.

A handwritten signature in black ink, appearing to read "Hien H. Phan", written over a horizontal line.

Hien H. Phan, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

HHP:lm